

**DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY**

November 10, 2008

Appeal

Petitioner: Susan P. Meacham

Filing Date: October 15, 2008

Case Number: TFA-0280

This Decision concerns Susan P. Meacham's Appeal from a determination that the Department of Energy's (DOE) Oak Ridge Office (ORO) issued to her on September 10, 2008. In that determination, the ORO responded to Ms. Meacham's request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as the DOE implemented in 10 C.F.R. Part 1004. This Appeal, if granted, would require the ORO to perform an additional search and either release newly discovered documents or issue a new determination justifying their withholding.

I. Background

Sterling Meacham, Ms. Meacham's late husband, worked at the Oak Ridge National Laboratory (ORNL). Appeal Letter. She filed a FOIA request with the ORO for his medical records. *Id.* The ORO did not find them. Determination Letter. Ms. Meacham then filed the present Appeal with OHA. Appeal Letter.

II. Analysis

In responding to a FOIA request for information, the courts have established that an agency must "conduct[] a search reasonably calculated to uncover all relevant documents. . . ." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Dep't of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542.

We have not hesitated to remand a case where the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (Dec. 13, 1995) (Case No. VFA-0098) (remanding where there was "a reasonable possibility" that responsive documents existed at an unsearched location).¹

¹ OHA decisions issued after November 19, 1996, may be accessed at <http://www.oha.doe.gov/foia1.asp>.

We contacted the ORO to request additional information so that we could evaluate its search. We learned that the ORO searched for medical records at the K-25 site because that was Mr. Meacham's last employment site, which is most likely to have his records. E-mail from Amy L. Rothrock, FOIA Officer, ORO, to David M. Petrush, Attorney-Examiner, OHA, Oct. 30, 2008. The ORO's search for responsive documents also included the DOE Records Holding Area, the ORNL, the Oak Ridge Associated Universities, and the Energy Employee Occupational Illness Program Act files. Paper files and electronic documents were searched by Mr. Meacham's name, date of birth, and social security number, which were the most useful search terms.² *See id.*

Based on this information, we conclude that the ORO's search for responsive documents was reasonably calculated to uncover the information that Ms. Meacham requested, and was therefore adequate. Therefore, we will deny Ms. Meacham's Appeal.

It Is Therefore Ordered That:

(1) The Appeal that Susan P. Meacham filed on October 15, 2008, OHA Case No. TFA-0280, is denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: November 10, 2008

² After the ORO sent Ms. Meacham its determination letter, employees at the K-25 facility searched again and found responsive medical records that they initially overlooked. E-mail from Amy L. Rothrock, FOIA Officer, ORO, to David M. Petrush, Attorney-Examiner, OHA, Oct. 30, 2008. The ORO has provided them to Ms. Meacham. *Id.*

We note that the fact that responsive records were found after the ORO completed its search does not render its otherwise adequate search inadequate. "[A] search need not be perfect, only adequate, and adequacy is measured by the reasonableness of the effort in light of the specific request." *Meeropol v. Meese*, 790 F.2d 942, 956 (D.C. Cir. 1986). Therefore, "[A] search is not unreasonable simply because it fails to produce all relevant [information]. . . ." *Id.* at 952-53.